

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GAULTER CAMARA,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION
)	NO. 06-11568-WGY
DAVID NOLAN,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

YOUNG, D.J.

June 13, 2007

I. INTRODUCTION

The respondent David Nolan ("Nolan"), Superintendent of MCI Cedar Junction, brings this motion to dismiss Gaulter Camara's ("Camara") petition for a writ of habeas corpus. Respondent's Mem. in Supp. of Mot. to Dismiss [Doc. No. 16] ("Respondent's Mem.") at 1. Nolan bases this motion to dismiss on the fact that Camara has allegedly failed to exhaust all available state remedies for Ground II of his petition. Id.

II. PROCEDURAL POSTURE

On May 10, 2001, a Bristol County Grand Jury indicted Camara on nine charges. Mem. in Supp. of Petition for Habeas Corpus [Doc. No. 13] ("Petition Mem.") at 1. Camara was found guilty of six of those charges by a jury of his peers on November 14, 2002. Id. at 2. Camara appealed on November 25, 2002. Id. Sua

sponte, the Massachusetts Supreme Judicial Court transferred the appeal to itself. Id. The Supreme Judicial Court affirmed the conviction in part. Commonwealth v. Spearin, 446 Mass. 599, 600 (2006).

In Ground I of his petition, Camara claims that the Supreme Judicial Court violated his constitutional rights by affirming the lower court's jury instruction. Id. at 6-10. Ground II is based on a claim that the exclusion of evidence of animosity between Camara and his alleged joint venturer violated his right to present a defense under the Sixth Amendment to the United States Constitution. Id. at 10-11; see also Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody [Doc. No. 1] ("Petition") at 3. Nolan filed a motion on January 22, 2007 to dismiss Camara's petition for failing to exhaust the claim found in the second ground of the petition. Respondent's Mem. at 4.

III. DISCUSSION

The issue presented by this motion is whether Camara has exhausted all of the remedies available in state court as to Ground II.¹ This Court draws all reasonable inferences from the well-pleaded facts in favor of Camara, the non-moving party. Fed. R. Civ. P. 12(b)(6). Yet, even so, in the interest of comity, there is a heavy burden upon Camara to demonstrate that

¹ Camara's contention that the motion to dismiss was untimely is without merit.

he has afforded the Supreme Judicial Court a full opportunity to rule upon his claims. 28 U.S.C. 2254(b); Nadworny v. Fair, 872 F.2d 1093, 1098 (1st Cir. 1989).

Although Nolan claims that only Ground II of the petition is unexhausted, the Supreme Court has mandated, subject to a few narrow exceptions, that a petition that mixes exhausted and unexhausted claims be dismissed. Rose v. Lundy, 455 U.S. 509, 519-20 (1982); Adelson v. DiPaola, 131 F.3d 259, 261-62 (1st Cir. 1997).

Exhausting a claim at the state level requires that the petitioner present the issue to the highest state court "in such a way as to make it probable that a reasonable jurist would have been alerted to the existence of the federal question." Scarpa v. Dubois, 38 F.3d 1, 6 (1st Cir. 1994). This requires that petitioner present in state court both the factual and the legal underpinnings of the federal claim. Nadworny, 872 F.2d at 1096 (citing Picard v. Connor, 404 U.S. 270, 276-77 (1971)). In more concrete terms, this determination requires the Court to look at "the four corners" of the memorandum in support of Camara's appeal to the Supreme Judicial Court and determine whether that document fairly presented a federal issue. See Adelson, 131 F.3d at 263 (quoting Mele v. Fitchburg Dist. Court, 850 F.2d 817, 823 (1st Cir. 1988)). A jurist would have been alerted to the federal nature of the claims only if the four corners of the

memorandum provided adequate notice. Nadworny, 872 F.2d at 1101.

Although determining this probability is necessarily a fact-specific inquiry, there are some guidelines that aid in resolving the question. A petitioner can alert the state court to the federal issue by citing a constitutional provision. Id. at 1097. Citing federal constitutional precedent or claiming "a determinate right that is constitutionally protected" are additional ways to present a federal issue to a state court. Id. The limit, however, is that there must be more than an "isolated federal-law bloom in a garden thick with state-law references." Id. at 1101.

Camara provided the Supreme Judicial Court with at least two references to federal authority. Camara argued in state court that the "exclusion of this exculpatory evidence violated the defendant's right to present a defense under . . . the Sixth Amendment" Brief for the Defendant on Appeal from the Bristol County Superior Court, No. SJC-09524, 2004 WL 3737330, *16 (Mass. Dec. 8, 2004) ("Brief for the Defendant") (filed in Commonwealth v. Spearin, 446 Mass. 599 (2006)). In addition, Camara cited a Massachusetts case that discussed federal authorities in its explanation of the law. Id. (citing Commonwealth v. Freeman, 442 Mass. 779, 784-85 (2004)). These are the sole direct appeals to federal authority upon which Camara bases his exhaustion claim.

Further bolstering Camara's contention that he exhausted the

federal claim is the fact that he also raised the argument that his rights were violated under Article 12 of the Massachusetts Declaration of Rights. Brief for the Defendant at 16. A petitioner can satisfy the exhaustion requirement if his state-law claim is indistinguishable from one arising under federal law. Nadworny, 872 F.2d at 1099-1100 (citing Picard, 404 U.S. at 277).

Although no Massachusetts case explicitly states that the right to present a defense is identical under both the Massachusetts and federal constitutions, Massachusetts cases that deal with the exclusion of a defendant's evidence treat the scope of the right as at least equivalent to the right guaranteed under the Federal Constitution. See, e.g., Commonwealth v. O'Laughlin, 446 Mass. 188, 209 (2006) (analyzing without distinguishing between the two provisions); Commonwealth v. Carroll, 439 Mass. 547, 551-54 (2003) (conflating analysis under the two provisions); Commonwealth v. Vardinski, 438 Mass. 444, 449 n.11 (2003) (implying that the right to present documentary evidence arises under both provisions without distinction); see generally also Herbert P. Wilkins, Judicial Treatment of the Massachusetts Declaration of Rights in Relation to Cognate Provisions of the United States Constitution, 14 Suffolk U. L. Rev. 887, 922-29 (1980) (comparing the Declaration of Rights with the Federal Constitution with respect to the rights of criminal defendants). The congruence between the Sixth Amendment and Article 12 of the

Massachusetts Declaration of Rights, when taken together with Camara's reference to both, is thus enough here to have put a reasonable jurist on notice of the federal dimension of this particular claim. Since the analysis is so similar under both state and federal constitutions, the Supreme Judicial Court was notified of the federal dimension of Camara's right-to-present-a-defense claim and had an opportunity to rule on it. Ground II of Camara's petition for a writ of habeas corpus was therefore exhausted in the state courts.

IV. CONCLUSION

As Camara has exhausted all available state court remedies for Ground II of his petition, Nolan's motion to dismiss for failure to state a claim [Doc. No. 15] is hereby DENIED.

/s/ William G. Young

WILLIAM G. YOUNG
DISTRICT JUDGE

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